



DEPARTMENT OF EMPLOYMENT AND TRAINING

STATE OF MARYLAND
HARRY HUGHES
Governor

BOARD OF APPEALS
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

(301)383-5032

BOARD OF APPEALS

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Chairman

HAZEL A. WARNICK
MAURICE E. DILL
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SEVERN E. LANIER
Appeals Counsel

MARK R. WOLF
Chief Hearing Examiner

— DECISION —

Decision No.: 400-BH-85

Date: June 19, 1985

Appeal No.: 12626

S. S. No.:

Claimant: Edward Taub

Employer: Institute for Behavior Resources L.O. No.: 7

Appellant: CLAIMANT

Issue: Whether the claimant is eligible for benefits pursuant to §3(b) of the law and whether the claimant performed services in employment within the meaning of §20(g) of the law. Whether the claimant was paid wages for insured work within the meaning of §4(d).

— NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON

July 19, 1985

— APPEARANCES —

FOR THE CLAIMANT:

Edward Taub - Claimant

FOR THE EMPLOYER:

DEPARTMENT OF EMPLOYMENT AND TRAINING
John Roberts - Legal Counsel

EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Employment and Trainings documents in the appeal file.

FINDINGS OF FACT

The claimant was employed as a principal investigator in the biological laboratory of the Institute for Behavior Resources, Inc., on December 1, 1968. In October, 1981, the company lost the research grant from which his salary was paid, as a result, wages paid to him for his services were discontinued. Nevertheless, the claimant continued to be associated with the company until April, 1983. Between October, 1981 and April, 1983, the claimant served as an officer and trustee; he attended annual meetings of the Board of Directors, and he participated in the defense of a legal matter which had arisen during his employment. He received no remuneration for those activities.

The claimant was awarded a Fellowship by the John Simon Guggenheim Memorial Foundation, a non-profit organization, for the period from April 1, 1983 to March 31, 1984, for the purpose of devoting himself to a study of "sensory mechanisms in the control of movement". The fellowship granted to him the sum of \$15,000 to defray his living expenses during that year.

The claim for unemployment insurance benefits has an effective date of October 14, 1984. The base period was determined by the department to be April 1, 1983 to March 31, 1984.

CONCLUSIONS OF LAW

As a condition of eligibility for unemployment insurance benefits, an unemployed individual must have been paid wages for insured work during his base period under §4(d) of the unemployment insurance law. Moreover, §20(n) of the law defines the term "wages" to mean "all remuneration for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash."

Here, the claimant last received wages in October, 1981, which was prior to his base period. Between October, 1981 and April, 1983 the claimant's association with his former employer was not an employment relation, and he received no wages based upon that association. The award of a fellowship during the base period did not constitute a receipt of wages because it did not constitute "remuneration for personal services". It was a scholarship. See, Sharvy v. Unemployment Compensation Board of Review, 42 Pa. Cmwlth. 553; 400 A.2d 1387 (1979), holding that a fellowship grant by The National Endowment for Humanities was not wages within the meaning of unemployment compensation law.

Consequently, the claimant was not paid wages for insured work during his base period as required by §4(d) of the law. The claimant is not eligible for benefits.

DECISION

The claimant was not paid wages for insured work during his base period, April 1, 1983 to March 31, 1984. Thus, he is not eligible for unemployment insurance benefits under §4(d) of the law.

The decision of the Appeals Referee is affirmed, but for the reasons set forth herein.



Associate Member



Associate Member



Chairman

D:W:K

kmb

DATE OF HEARING: April 23, 1985

COPIES MAILED TO:

CLAIMANT

EMPLOYER

UNEMPLOYMENT INSURANCE - COLLEGE PARK

John Roberts - Legal Counsel



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Chief Hearing Examiner

- DECISION -

Claimant: Edward Taub
 Date: Mailed 12/7/84
 Appeal No.: 12626
 S. S. No.:
 Employer: Institute for Behavior Resources LO.NO.: 7
 Appellant: Claimant

Issue: Whether the claimant is eligible for benefits pursuant to Section 3(b) of the Law.

- NOTICE OF RIGHT TO PETITION FOR REVIEW -

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A REVIEW AND SUCH PETITION FOR REVIEW MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL

THE PERIOD FOR FILING A PETITION FOR REVIEW EXPIRES AT MIDNIGHT ON December 24, 1984

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant-Present

FINDINGS OF FACT

The claimant worked for Behavior Resources when it was known as Institute for Behavior Research. He worked for it for approximately 12 years, during which time unemployment insurance taxes were paid voluntarily by the employer. The claimant received a salary during this period of time and it was ^{from} covered by 1970 to October 1981. After October 1981, he no longer received a salary.

The claimant did, however, in 1983 receive a prize and award from the John Simon Guggenheim Memorial Foundation. This is a prize which is awarded to scientists and scholars to enable them to carry on their investigations. While the claimant was receiving this, he continued to work at the Institute for Behavior Resources.

The claimant had no covered income from the Institute for Behavior Resources during his base period. During the base period, this company was an institution exempt from income tax under Section 501(a) of the Federal Internal Revenue Code. The claimant informs that the John Simon Guggenheim Memorial Foundation is a similar tax exempt organization. During the claimant's base period, which is from April 1, 1983 to March 31, 1984, he had no further income from a base period employer other than the \$15,000 prize which he was awarded by the Guggenheim Foundation.

CONCLUSIONS OF LAW

Section 20(g) (8)(ix) of the Maryland Unemployment Insurance Law, Article 95A, provides that employment does not include: "Service performed in any calendar quarter in the employ of an organization exempt from income tax under Section 501(a) of the Federal Internal Revenue Code --- or under Section 421 of such code if the remuneration for such service is less than \$50."

The claimant, therefore, cannot be paid unemployment insurance benefits based on any work he performed for the Institute of Behavior Resources. The claimant received no funds from the Institute for Behavior Resources during the base period April, 1983 to March 31, 1984.

With respect to the monies the claimant received from the Guggenheim Foundation, he urges that this was prize money and not covered employment and that it does not create a basis for unemployment insurance benefits. His urgings will be respected.

DECISION

The claimant is monetarily ineligible for unemployment insurance benefits within the meaning of Section 3(b) of the Maryland Unemployment Insurance Law. Benefits are denied from September 30, 1984 until the claimant is monetarily eligible.

The determination of the Claims

Examiner is affirmed.



Martin A. Ferris
APPEALS REFEREE

Date of hearing: November 29, 1984

Cassette: 8042

hf (J. Kolodkin)

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Claimant

Employer

Unemployment Insurance-College Park